



City of Dayton

Electric Power Aggregation

Plan of Operation and Governance

Aggregation 8/12/14 FINAL DRAFT for Public Hearing Consideration

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1. Overview

The Plan of Operation and Governance (the “Plan”) has been prepared by the City of Dayton (the “City”) in compliance with Ohio law (O.R.C. 4928.20) regarding government aggregation of electric consumers (the “Aggregation Program”). The Plan contains information on the structure, governance operations, management, funding, and policies of the Aggregation Program to be utilized for participating eligible consumers.

The City’s purpose in preparing this Plan is to describe its approach to the Aggregation Program undertaken on behalf of the eligible consumers within its corporate boundaries. The City seeks to represent consumer interests in competitive markets for the generation supply of electricity or competitive retail power supply. The City seeks to aggregate the competitive retail power supply necessary to serve consumers in the City and to negotiate market favorable rates for the supply of electricity to all eligible residents, schools, churches, businesses, industries, governmental entities, and other participants as may be allowed by law. By combining consumers within the City, the City realizes increased leverage, resources, and buying power for participants. The City shall administer the necessary managerial, technical, and financial resources and/or contract with appropriate third party entities to arrange for electric generation service and establish financial guarantees sufficient to protect participants.

The Aggregation Program involves the aggregation of competitive retail power supply within the City for the benefit of participants. Electric Distribution services (metering, billing, maintenance of the transmission and distribution system) will continue as the function of the local electric distribution utility who shall also be the “provider of last resort” for consumers not participating in the Aggregation Program who have no other competitive supplier. As authorized by a majority vote of its electors voting on November 5, 2013, the City’s Aggregation Program has been undertaken as an “opt-out” program. Each eligible consumer will have the opportunity to decline service (i.e. opt-out) as provided for by law and the Aggregation Program, and choose any then available electric supplier they wish at the outset of the program and, at a minimum, every three (3) years thereafter.

The Aggregation Program has been undertaken through the authorization of City Commission and through the public process as required by O.R.C. 4928.20.

2. Definitions

A. “AGREEMENT,” “POWER SUPPLY AGREEMENT” or “SUPPLY AGREEMENT” means the contractual agreement entered into between the City and a Supplier to arrange for the supply of electric generation to the Members that sets forth the rates, terms and other conditions of the Supplier’s provision of electric generation to the Members.

B. "AGGREGATION" means the combining the electric loads of multiple consumers for the purposes of supplying or arranging for the supply of competitive retail electric service(s) to those consumers.

C. "AGGREGATION PROGRAM" means the program for the aggregation of competitive retail power supply by the City as described herein.

D. "CERTIFICATION APPLICATION FOR GOVERNMENT AGGREGATORS" or "APPLICATION" means the application required by the PUCO to be filed by a governmental entity who wishes to aggregate the retail electric load of Consumers within its jurisdictional boundaries.

E. "CITY" means the City of Dayton, Ohio.

F. "CITY CHARTER" means the Charter of the City of Dayton, Ohio enacted by the electors of the City in accordance with Article XVIII, Section 7 of the Ohio Constitution.

G. "CITY COMMISSION" means the governing body of the of Dayton, Ohio.

H. "CITY MANAGER" means the duly appointed City Manager of the City of Dayton, Ohio.

I. "COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER" or "CRES PROVIDER" means a person or entity certified by the PUCO in accordance with O.R.C 4928.08 and registered with the local EDU who supplies or offers to supply a competitive retail electric service over the EDU's electric transmission and/or distribution system. This term does not apply to the EDU in its provision of standard offer generation service. a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.

J. "CONSUMER" means a person or entity that uses or consumes electric generation supply.

K. "ELECTRIC DISTRIBUTION UTILITY" or "EDU" means the electric distribution utility that delivers electricity to Consumers in the City in accordance with the requirements of O.R.C. 4928.01(A)(6). Currently the local EDU is the Dayton Power and Light Company (DP&L).

L. "ELIGIBLE MEMBER" means a consumer eligible under EDU and PUCO rules which the City and its Supplier have elected to serve in the Aggregation Program. Consumers that shall not be included in the Aggregation Program pursuant to Ohio law, EDU and PUCO rules include the following:

- i. A consumer who has Opted-Out;
- ii. A consumer that affirmatively chooses to be included on the PUCO's "do not aggregate" list;
- iii. A "Mercantile Customer" that fails to affirmatively elect to be included in the Aggregation Program;

- iv. A consumer already in contract with another CRES Provider;
- v. A consumer enrolled in the Percentage of Income Payment Plan Plus (“PIPP”);
- vi. A consumer that has a special contract with the EDU; or
- vii. A consumer not located within the City’s geographic boundaries.

M. “LAW” means any local, state and/or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, or other legal requirement.

N. “MEMBER,” “ENROLLED MEMBER” or “PARTICIPANT” means an Eligible Member that has been and is then currently enrolled in the City’s Aggregation Program.

O. “MERCANTILE CUSTOMER” means a commercial or industrial customer that consumes electric for nonresidential use in excess of seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states, all as defined by O.R.C. 4928.01(19).

P. “OHIO CONSUMERS COUNSEL” or “OCC” means the Consumers Counsel of the State of Ohio as appointed by the Consumers Counsel Governing Board in accordance with O.R.C. 4911.02(A) and who may take appropriate action with respect to residential consumer complaints concerning quality of utility service, service charges, and the operation of the PUCO.

Q. “O.R.C.” means the Revised Code of the State of Ohio.

R. “OPT-OUT” means the affirmative process described herein whereby an Eligible Member chooses not to participate in the Aggregation Program and/or an Enrolled Member chooses to be removed from the Aggregation Program.

S. “OPT-OUT CONSUMER” means an Eligible Member that affirmatively chooses to Opt-Out of the Aggregation Program during an appropriate Opt-Out Period.

T. “OPT-OUT DISCLOSURE NOTIFICATION,” “NOTIFICATION” or “NOTICE” means the process and materials as required by O.R.C. 4928.20(D) and further described by Section 6 of this Plan of Operation and Governance.

U. “OPT-OUT FORM” means the user friendly form provided to Eligible Members in the Opt-Out Disclosure Notification package that an Eligible Member can return to the City and/or Supplier indicating that the Eligible Member has affirmatively Opted-Out of the Aggregation Program.

V. “OPT-OUT PERIOD” means the initial twenty-one (21) day period where an Eligible Member may affirmatively choose not to participate in the City’s Aggregation Program and/or the point in time, once every three (3) years, where an Enrolled Member may choose to remove themselves from the City’s Aggregation Program.

W. “PENALTY” or “SWITCHING FEE” means the fees or cost levied upon a Member when that Member switches its electric service away from the Supplier to another electric service provider outside of the Opt-Out Period.

X. “PERCENTAGE OF INCOME PAYMENT PLAN PLUS” or “PIPP” means the energy assistance program coordinated by the Ohio Department of Development, Home Energy Assistance Program Providers and the PUCO.

Y. “PLAN OF OPERATION AND GOVERNANCE” or “PLAN” means the plan by which the City shall undertake and prosecute an Aggregation Program as allowed by Law and in accordance with the rights, obligations and duties as described herein.

Z. “PROVIDER OF LAST RESORT” or “POLR” means the local EDU which currently serves as the "back-up" electric supply provider to the electric service provided to Members by the Supplier selected by the City under the Aggregation Program.

AA. “PUBLIC UTILITIES COMMISSION OF OHIO” or “PUCO” means the Public Utilities Commission of Ohio as defined in O.R.C. 4901.02.

BB. “REQUEST FOR PROPOSAL” or “RFP” means the solicitation made by the City to the marketplace of CRES Providers to seek responsive proposals for the purpose of the procurement of the electric generation necessary to adequately and economically serve all the Enrolled Members of the City’s Aggregation Program.

CC. “R.C.G.O.” means the Revised Code of General Ordinances of the City of Dayton, Ohio.

DD. “SPECIAL CONTRACT” means a unique contract or for electric generation service between an EDU and a Consumer as may be allowed by O.R.C. 4905.31.

EE. “STANDARD OFFER” means the electric generation service a Consumer will receive from their local EDU if they do not choose an electric supplier or are not enrolled in the City’s Aggregation Program.

FF. “SUPPLIER” means the CRES provider that the City has chosen to provide the electric generation service to the members of the City’s Aggregation Program.

3. Process for Municipal Aggregation

The process of establishing the City’s Aggregation Program (municipal aggregation) involves a multi-step public process undertaken by the City which is described as follows:

A. On July 31, 2013, City Commission passed Ordinance No. 31259-13 as required by O.R.C. 4928.20(A) that authorized the Ballot question regarding the City’s authority to aggregate retail electric load of Consumers within the City;

B. The City's authority to aggregate was approved by voters in the City on November 5, 2013;

C. The City published notice of two (2) public hearing in the Dayton Daily News, a newspaper of general circulation in the City, on August 25, 2014 and August 31, 2014 that summarized the Plan and advertised the date, time and location of the public hearings on September 15, 2014 and September 22, 2014;

D. The City held two (2) public hearings on the Plan on September 15, 2014 and September 22, 2014;

E. City Commission adopted the Plan on XXXX, 2014;

F. The City filed an Application and the Plan with the PUCO for certification as a Governmental Aggregator on XXXX, 2014; and

G. Upon the PUCO approving the City as a governmental aggregator, the Supplier selection process occurs through the issuance of an RFP, review of responsive RFP proposals and the subsequent negotiation of an Agreement with the selected Supplier;

H. Following the City Commission's approval of the Agreement, the City will send all Eligible Members the Opt-Out Disclosure Notification setting forth the rates, terms and conditions of enrollment.

4. Process to Determine Rates

The Aggregation Program is intended to lower the amount that Enrolled Members pay for electric energy, and to gain other favorable economic and non-economic terms for the City and Enrolled Members in the Agreement. The City does not buy and resell electricity, but represents Eligible Member interests as a master purchasing agent to coordinate the Aggregation Program that sets the terms for electricity supply and service from a Supplier. Through a RFP and the subsequent negotiation process, the City will develop an Agreement with a Supplier for all-requirements electric generation service. The Agreement is expected to be for a fixed term or a combination of a fixed terms and percentage off Standard Offer. Once the Agreement has been finalized, it will be submitted by City staff to the City Commission for review and approval.

Practical steps and requirements of acquiring electric generation supply in the competitive market include the following activities to be undertaken by the City, to select the Supplier and set rates:

A. The City and its legal and technical advisors will develop and issue an appropriate RFP;

B. Proposals submitted by RFP respondent(s) will be reviewed and negotiations undertaken with selected respondents by the City and its legal and technical advisors; and

C. The City Commission shall review and approve the selection of the Supplier and terms and conditions of the Agreement.

5. Aggregation Program Funding

The cost and expense of the City's development, implementation, or management of the Aggregation Program and its associated benefits is anticipated to be provided by the Supplier through an administrative fee, percentage adder process or some other appropriate mechanism.

6. Eligible Member Notification: Opt-Out Disclosure Notices

Initially, each Eligible Member within the City's corporate limits will be automatically included in the Aggregation Program. Prior to actual enrollment, each Eligible Member will receive a Notification from the City and/or the Supplier detailing the Aggregation Program's rates, terms, conditions, and Opt-Out rights.

A. Prior to initiation of service, all Eligible Members shall be notified of the Opt-Out terms. The process of Notification shall include:

- i. Separate mailing;
- ii. Newspaper notices;
- iii. Social media;
- iv. Public service announcements; and/or
- v. Posting of prominent notice in various City office buildings.

B. Prior to enrollment, the City shall mail the Notification in a timely manner for receipt by Eligible Members prior to their start-of-service day. The Opt-Out Period shall be twenty-one (21) days from the notice's postmarked date (or, if none, the mailing date). The notification shall include:

- i. A summary of all actions taken by the City to authorize the Aggregation Program;
- ii. A description of the services offered by the Aggregation Program;
- iii. Disclosure of the price to be charged (which may be a price stated in cents per kilowatt-hour);
- iv. A statement informing Eligible Members of the right to Opt-Out under the Aggregation Program every three years, without interruption of their current service, or payment of a Penalty or Switching Fee;
- v. A statement informing Eligible Members that returning to EDU may not result in that Member being served under the same rates, terms, and conditions as other Consumers served by the EDU;
- vi. A list and explanation of all known fees and charges assessed to Members for participation in the Aggregation Program;

- vii. Disclosure of the dates covered by the Aggregation Program, including the estimated start date;
- viii. Disclosure of any limitations or conditions on an Eligible Member's acceptance into the Aggregation Program;
- ix. A description of the Opt-Out process and statement that the Opt-Out Period will last for twenty-one (21) days from the date of the postmark on the Notification; and
- x. A user-friendly Opt-Out Form (e.g. a postcard) to return to the City indicating whether the Eligible Member has opted out of the Aggregation Program. Eligible Members who do not return the Opt-Out Form shall be automatically included in the Aggregation Program; and
- xi. A local or toll-free telephone number with the available calling hours the Eligible Consumer may call regarding the Aggregation Program.

7. Member Accounts - Pool of Members

The process of enrollment in the Aggregation Program is an administrative function with four parts:

- A. Data Preparation: On an electronic list consistent with electronic data interface protocols, Supplier will identify all Eligible Members in the City (including names, addresses, account numbers, rate codes, PIPP codes, and other relevant information);
- B. Data Verification: To the extent needed, if not inherent in data preparation, the EDU shall check Eligible Member meter numbers and other codes to verify proper identification;
- C. List Adjustment: Following the Opt-Out process, the Supplier shall revise the list; and
- D. Automatic Enrollment: The revised electronic Member list shall be transmitted back to the EDU for Member transfer to the Supplier.

Members on all billing cycles will be enrolled with the Supplier consistent with the beginning of a new billing cycle. Service under the Supplier shall begin at the start of the billing period following transfer. Service starts that do not match the billing cycle may be requested by a Member, but may incur additional charges.

8. Opt-Out Process

Eligible Members shall be notified of the Aggregation Program and terms and conditions of participation prior to initiation of services and be provided an opportunity to Opt-Out at without a Penalty or Switching Fee during the initial Opt-Out Period specified in the terms and conditions of the Agreement. During this twenty-one (21) day period an Eligible Member may choose another competing Supplier, or receive service from the EDU. Enrolled Members will be

given an opportunity after every three (3) years following the initiation of Supplier's service to Opt-Out. Enrolled Members who choose to Opt-Out of the Aggregation Program after the initial Opt-Out Period, but prior to the next three (3) year Opt-Out opportunity, may face a Penalty or Switching Fee which will be described in the Opt-Out Notification. The electronic list will be revised by the Supplier to remove responding Opt-Out Consumers from the list.

9. Consumer Class

The EDU assigns consumer rate classifications, character of service and associated regulated rates subject to PUCO approved tariffs, rules and regulations. In addition to the Supplier's generation charges, Members will continue to be billed for the EDU's service and delivery charges and certain other charges as allowed by Law. Although the City may participate in certain regulatory proceedings and represent the interests of consumers regarding regulated rates, it cannot assign or alter consumer rate classifications.

10. Billing

The City intends to utilize the EDU's consolidated billing service in which each Member account receives one bill during the EDU's billing cycle itemizing the Supplier's electric supply charges and the EDU's delivery, transition and other PUCO approved charges. The billing statement will be consistent with applicable PUCO tariffs, rules and regulations.

Credit, deposit, and collection processes concerning Member billing will remain the sole responsibility of the Supplier and the EDU as provided for by Law. Under no circumstances shall the City have any responsibility or obligation to the Supplier or EDU for payment of any Member bills, costs or expenses.

11. Individual Member Termination of Participation

In addition to the opportunity to Opt-Out of the Aggregation Program prior to initiation of the Supplier's provision of service, an Enrolled Member will be given an opportunity to Opt-Out at no charge every three (3) years after startup of service. Enrolled Members who move from the City will have no Penalty or Switching Fees. However, an Enrolled Member who chooses to Opt-Out after the initial Twenty-One (21) day Opt-Out Period, but before the available Opt-Out opportunity three (3) years following initial Supplier service may be required to pay a Penalty or Switching Fee.

12. Service Termination by Supplier

Consistent with the requirements of Law and the tariffs, rules and regulations of the PUCO, termination of service by the Supplier and/or EDU may take place for non-payment of bills. Members whose power supply is terminated by a selected Supplier will receive electric supply from the EDU, unless the EDU has also met legal requirements to terminate service. Eligible Members may be considered for re-enrollment in the Aggregation Program once they have met the requirements of Law and are current on bill payment.

13. Termination of the Aggregation Program

In the event that the Power Supply Agreement is terminated prior to the end of the term, each Member receiving power supply services under the Aggregation Program will receive notification of termination of the Aggregation Program sixty (60) days prior to such termination. If the Agreement is not extended, renewed or replaced, Members who are removed from the Aggregation Program due to the termination shall be notified of their right to select an alternate generation supplier and of their ability to return to the EDU's standard offer.

14. Entering and Returning Members

Members who leave the Aggregation Program and wish to return, as well as Eligible Members who move into the City after the initial Opt-Out Period will be afforded the opportunity to enroll in the Aggregation Program.

Consumers who move to a location within the City and are not currently Enrolled members but are considered by the EDU to be new electric consumers, may participate in the Aggregation Program under the then existing price and terms offered for that Member class, or other terms and conditions as may be specified in the Agreement. Such new Eligible Member may also choose to Opt-Out of the Aggregation Program without Penalty or Switching Fee during the initial twenty-one (21) day Opt-Out Period after the relocation or at the appropriate time during the Opt-Out Period made available once every three years subsequent. There will be no guarantee that Eligible Members enrolling in the Aggregation Program at a later date will receive the same price or terms and conditions of service as initially Enrolled Members.

15. Resolution of Member Complaints

It is important that Member complaints be directed to the proper party. The Supplier will be required to have a local phone number and commonly accessible IP web address. The Supplier shall ensure that each Member receives a printed copy of the local phone number and commonly accessible IP web address to contact regarding service issues or billing questions. The Supplier shall refer reliability, line repair, or service interruption, and certain billing issues to the EDU. The Supplier shall handle all complaints in accordance with applicable Law. Problems or questions regarding the Supplier can be directed to the PUCO or the City. Residential Members may also contact the OCC regarding complaints and utility issues. Listed below is a table of toll-free or local numbers and websites. This contact information may be amended, modified or supplemented from time to time without requiring City Commission or PUCO approval. Any amendments, updates or modifications the contact information will be available upon request from the Supplier or the City.

Nature of Complaint	Contact	Phone Number	Website
Power Interruptions or Outages	EDU - The Dayton Power and Light Co.	1-877-468-8243	www.dplinc.com
Service Turn On/Off - Residential	EDU - The Dayton Power and Light Co.	1-800-433-8500	www.dplinc.com
Service Turn On/Off - Business	EDU - The Dayton Power and Light Co.	1-800-245-5801	www.dplinc.com
Billing Disputes - Residential	EDU - The Dayton Power and Light Co.	1-800-433-8500	www.dplinc.com
Billing Disputes - Business	EDU - The Dayton Power and Light Co.	1-800-245-5801	www.dplinc.com
Joining/Leaving Program	Supplier TBD / See Opt-Out Notice	TBD / See Opt-Out Notice	TBD / See Opt-Out Notice
Aggregation Program Questions	City - City of Dayton	937-333-4800	www.daytonohio.gov
Unresolved Disputes	PUCO - Public Utilities Commission of Ohio	1-800-686-7826	www.PUCO.ohio.gov
Residential Service Complaints	OCC - Ohio Consumers Counsel	1-877-742-5622	www.pickocc.org

16. Periodic Reports on Member Complaints

The City shall use reasonable efforts to monitor and promote the enforcement of any consumer protection provisions which may be included in the Supply Contract. At the request of the City, the selected Supplier shall provide a quarterly summary of the number and types of customer service issues and complaints that have then arisen to date, and the status of resolution of those issues and complaints. If such reports indicate problems in the selected Supplier's service, the City will request timely remedial action. Should such problems continue without timely remediation, the City may consider the Supplier in breach of terms of the Agreement.

17. Universal Access

All Eligible Members within the geographic borders of the City shall have universal access to electric supply service from the Supplier under the terms and conditions of the Agreement.

18. Consumer Protections

Regarding issues of consumer protection for Eligible Members and Members in regards to Aggregation Program and the Agreement, the City will to the best of its ability and where possible in accordance with Law, ensure that the selected Supplier complies with all Law. The City will endeavor to provide on-going consumer education for Eligible Members and Members through public service announcements, postings of relevant information, media press releases, electronic notices, social media, and direct mailing depending upon the subject and appropriate

venue. Additionally, the City shall in the Agreement require that the Supplier accept and agree to reasonable financial and technical audit provisions which may be conducted by the City or its designee from time to time in order to assure that Eligible Members and Members are being served by the Supplier in a technologically proficient and economically responsible manner.

19. Contract Disclosure

The City will make available to consumers adequate and understandable pricing information and details regarding the terms and conditions of the Agreement with the Supplier. Copies of the Power Supply Agreement will be available to the public upon request.

20. Modifications to the City's Plan and Agreement

All material modifications or amendments to the City's Plan shall be in accordance with Law and approved by majority vote of the City Commission.

If the Agreement is extended, renewed or terminated, Eligible Members will be notified as required by Law as to any change in rate or service conditions. Current Law requires that such notification to Eligible Members occur at least once every three (3) years.

21. Rights and Responsibilities of Members

All Aggregation Program Members shall enjoy the protections of consumer law as they currently exist or as they may be amended from time to time. Under protocols developed by the PUCO, issues related to billing or service shall be directed to the appropriate parties: the EDU or the Supplier.

All Aggregation Program Members shall meet all standards and responsibilities required by the PUCO, including timely payment of billings and access to essential metering and other equipment to carry out utility operations.

22. Description of Organization and Management of Aggregation Program

The City will establish the Aggregation Program in accordance with Law and provide managerial, technical and financial resources to acquire electric generation service and obtain certain financial guarantees from the Supplier sufficient to protect Enrolled Members. The City will use its best efforts to develop an Aggregation Program that with a high level of service to Members at market favorable rates while promoting green energy programs, energy conservation and encouraging the deployment of advanced alternative, renewable and sustainable energy strategies. The City has developed a firmly based organization and employed qualified and sophisticated legal and technical assistance from experienced and highly reputable firms in order to assist with the Aggregation Program. The City Manager will oversee the implementation and operation of the Aggregation Program consistent with the provisions of O.R.C. 4928.20, the City Charter, R.C.G.O. and Law. The City Manager, in his/her discretion and with the approval of the City Commission, may join with other PUCO certified and approved governmental aggregators and/or select and retain the services of a qualified and

reputable third-party entity, to facilitate the initial implementation and deployment of the Aggregation Program and/or perform the ongoing day to day functions necessary for the City to operate the Aggregation Program and provide Members with the appropriate electric generation services and market favorable rates.

23. Liability

THE CITY SHALL NOT BE LIABLE TO ELIGIBLE MEMBERS OR ENROLLED MEMBERS OF THE AGGREGATION PROGRAM FOR ANY CLAIMS, HOWEVER STYLED, ARISING OUT OF THE AGGREGATION PROGRAM OR THE PROVISION OF SERVICES BY THE CITY OR THE SUPPLIER. ELIGIBLE MEMBERS OR ENROLLED MEMBERS OF THE AGGREGATION PROGRAM SHALL ASSERT ANY SUCH CLAIMS SOLELY AGAINST THE SUPPLIER PURSUANT TO THE AGREEMENT, UNDER WHICH SUCH ELIBIBLE MEMBERS AND ENROLLED MEMBERS ARE EXPRESS THIRD PARTY BENEFICIARIES.

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